

Vol
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In the United States
Circuit Court of Appeals
For the Ninth Circuit.

In the Matter of the Application of
GAVIN W. CRAIG
For a Writ of Habeas Corpus.

GAVIN W. CRAIG,
Appellant,
vs.
UNITED STATES OF AMERICA,
Appellee.

Transcript of Record.

Upon Appeal from the District Court of the United States for the
Southern District of California, Central Division.

FILED

DEC 24 1936

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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original record are printed literally in italics; and, likewise, cancelled matter appearing in the original record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in italics the two words between which the omission seems to occur.]

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United States of America, ss.

To United States of America Greeting:

You are hereby cited and admonished to be and appear at a United States Circuit Court of Appeals for the Ninth Circuit, to be held at the City of San Francisco, in the State of California, on the 24 day of December, A. D. 1936, pursuant to an order allowing appeal filed in the Clerk's Office of the District Court of the United States, in and for the Southern District of California, in that certain cause entitled In The Matter of the Petition of Gavin W. Craig for a Writ of Habeas Corpus, No. 12964-H, wherein Gavin W. Craig is the appellant and you are appellee to show cause, if any there be, why the Order denying the petition for the Writ of Habeas Corpus in the said appeal mentioned, should not be corrected, and speedy justice should not be done to the parties in that behalf.

WITNESS, the Honorable LEON R. YANKWICH United States District Judge for the Southern District of California, this 25 day of November, A. D. 1936, and of the Independence of the United States, the one hundred and sixty-first.

Leon R. Yankwich

U. S. District Judge for the Southern District
of California.

[Endorsed]: Received copy of within citation this 25th day of November, 1936 Peirson M. Hall, attorney for appellee, By G. F. Filed Nov. 25, 1936 R. S. Zimmerman, Clerk By J. M. Horn, Deputy Clerk.

DISTRICT COURT OF THE UNITED STATES OF
 AMERICA SOUTHERN DISTRICT OF CALI-
 FORNIA CENTRAL DIVISION

IN THE MATTER OF THE)
 APPLICATION OF) Petition for a Writ of
 GAVIN W. CRAIG FOR A) Habeas Corpus
 WRIT OF HABEAS CORPUS)

Comes now your Petitioner, Gavin W. Craig, and presents his petition for a writ of Habeas Corpus and shows unto the Court the following:

I. That your petitioner is a citizen and resident of the City of Los Angeles, County of Los Angeles, State of California.

II. That your petitioner is now illegally imprisoned and restrained of his liberty and detained in the custody of the United States Marshal of the said Southern District of California and that said detention is within the jurisdiction of the United States District Court in and for the said district. That said detention by said United States Marshal is under color of authority of a certain warrant of commitment as will be more particularly set forth herein.

III. That the said Gavin W. Craig was made a defendant in a certain cause entitled "United States of America, Plaintiff, vs. Gavin W. Craig, Helen Werner, and Joseph Weinblatt, Defendants," and which cause was begun by indictment returned in the district court of the United States in and for the Southern District of California, Central Division, by the Grand Jury of the United States for the said division and district and which said indictment bears the number 12231-C, Criminal, a

copy of which said indictment is attached hereto marked Exhibit "A" and made a part hereof by reference.

IV. That said indictment consists of two counts, the first of which charges a conspiracy to commit an offense against the United States of America, to-wit: A conspiracy to obstruct the due administration of justice by unlawfully and corruptly bringing about the dismissal of a certain case then pending in the District Court of the United States in and for the Southern District of California, Central Division, entitled "United States of America versus Alfred C. Wilkes, et al" numbered 10679-M, Criminal.

V. That on the 25th day of February, 1935, a trial was begun on the said charge so contained in said indictment No. 12231-C, Criminal, which said trial continued to and including the 26th day of February, 1935, at which time the Court ordered the entry of a judgment in favor of the defendants on said first count of said indictment No. 12231-C, Criminal, which said judgment was then and there duly and regularly entered by the clerk of said Court, a copy of which said judgment is attached hereto marked Exhibit "B".

VI. That thereafter, the case was duly submitted to the jury on the second count of said indictment and that said jury disagreed and was duly and regularly dismissed by the Court.

VII. That upon the trial under said indictment No. 12231-C and also upon the trial under an indictment No. 12337-H (which said indictment No. 12337-H and the trial under it are more fully described hereinafter), evidence was submitted and testimony was given by witnesses called by the United States of America concerning and

in support of each essential ingredient of the respective offenses attempted to be charged in said respective indictments, as is shown and fully set forth in a statement of the testimony of each of said witnesses, attached hereto, marked Exhibit "C" and made a part hereof by reference.

VIII. That thereafter and on the 14th day of March, 1935, this petitioner, Gavin W. Craig, was made a defendant in a certain cause entitled, "United States of America vs. Gavin W. Craig, Helen Werner and Joseph Weinblatt," and which case was begun by an indictment by the Grand Jury of the United States in and for the Southern District of California, Central Division returned into the District Court for said District and Division bearing No. 12337-H, Criminal, a copy of which indictment is attached hereto marked Exhibit "D" and made a part hereof by reference.

IX. That said indictment numbered 12337-H, Criminal, consists of two counts, the first of which charges a conspiracy to obstruct and endeavor to obstruct the due administration of justice in a certain criminal proceeding then pending in the United States District Court for the Southern District of California, Central Division, entitled "United States of America Plaintiff, versus Alfred G. Wilkes, et al, Defendants," bearing No. 10679-M, Criminal, by unlawfully and corruptly bringing about the dismissal of the said last named cause.

X. That the first count of the said indictment No. 12337-H, Criminal, charged the same offense as did the

first count of the said indictment No. 12231-C, Criminal, and that the first count of the said indictment No. 12337-H, Criminal charged no other or different offense than that charged in the first count of the said indictment No. 12231-C, Criminal.

XI. That on the 30th day of April, 1935, a trial was begun on said charges so contained in count one of the said indictment No. 12337-H, Criminal, which said trial continued to and including the 7th day of May, 1935, upon which last named date the said cause was submitted to the jury which had theretofore been duly and regularly impaneled and sworn, and the said jury returned a verdict finding this petitioner guilty on the first count of the said indictment No. 12337-H, Criminal; that by reason of the acquittal of this petitioner on the first count of the said indictment numbered 12231-C, Criminal, your petitioner was, by virtue of the said trial on the first count of the said indictment numbered 12337-H, Criminal, twice placed in jeopardy for the same offense.

XII That at the time of the arraignment of this petitioner upon the said indictment, 12337-H, Criminal, this petitioner duly and regularly interposed a plea to the said indictment by which said plea it was shown that said petitioner had theretofore been acquitted of each and every offense charged in the first count of the said indictment in 12337-H, Criminal, a copy of which plea is attached hereto, marked Exhibit E, and made a part hereof by reference.

XIII. That thereafter and on the 10th day of May, 1935, the said Court pronounced judgment and sentence upon the said verdict of guilty on the first count of said indictment No. 12337-H, Criminal, by the terms of which the said petitioner, Gavin W. Craig was ordered to serve a term of imprisonment in a County jail for a period of one year and to pay a fine of One thousand (\$1000.00) dollars, a copy of which said judgment and sentence is hereto attached, marked Exhibit "F", and made a part hereof by reference.

XIV. That thereafter and on the day of November, 1936, the said United States District Court for the Southern District of California, Central Division, issued a commitment in execution of the said judgment and sentence so pronounced on the first count of the said indictment 12337-H, Criminal, as aforesaid. That solely under color of authority of said commitment, the said United States Marshal for the said Southern District of California, took this petitioner into custody and is now illegally detaining this petitioner and depriving him of his liberty in the City of Los Angeles, County of Los Angeles, State of California, and within the Division and District aforesaid.

XV. That the said commitment and the said custody of this petitioner by the said United States Marshal are and each of them is illegal and void for the following reasons, to-wit:

1. The said United States District Court for the Southern District of California, Central Division, was

and is without power or jurisdiction to enter or impose a judgment or a sentence upon your petitioner on the first count of the said indictment No. 12337-H, Criminal, because:

(a) Your petitioner had been previously acquitted of the offense charged in the said first count of said indictment No. 12337-H, Criminal, as hereinbefore alleged.

(b) That the said first count of said indictment No. 12337-H, Criminal, did not state facts sufficient to constitute any offense against the United States or any of the laws thereof, for the following reasons:

1. That the said first count of the said indictment does not allege the persons whose decisions or actions your petitioner conspired corruptly to influence.

2. That the said first count of the said indictment does not allege what, if any, was the official function in which said persons were acting on behalf of the United States.

3. That the said first count of the said indictment does not allege that the persons whose decisions and actions it is alleged the petitioner conspired corruptly to influence were acting in any official function under or by authority of the laws of the United States.

4. That it is not alleged in the first count of the said indictment that the persons whose decisions and actions your petitioner is alleged to have conspired corruptly to influence were acting for or on behalf of the United

States in any official function under or by authority of any department or office of the government thereof.

5. It is not alleged in the first count of the said indictment that your petitioner conspired to promise, offer or give, or procure to be promised, offered or given, any money or anything of value, or to make or tender any contract, undertaking, obligation, gratuity or security for the payment of money or for the delivery or conveyance of anything of value to any officer of the United States or to any person acting for or on behalf of the United States in any official function under or by authority of any department or office of the Government thereof.

6. That the first count of the said indictment does not allege any facts which show that the persons, whose decisions and actions it is charged the petitioner conspired to influence, were officers of the United States or were persons acting for or on behalf of the United States in any official function, under or by authority of any department or office of the Government thereof, but said first count of the said indictment alleges conclusions only.

7. That it is not alleged in the first count of the said indictment that this petitioner conspired or agreed to influence corruptly or otherwise the decision or action of any person or persons whatsoever; it is merely alleged that this petitioner offered to influence the decision and actions of certain unnamed persons upon the happening of a future event and it is nowhere alleged in said first count that said event ever happened.

8. No facts are alleged in the first count of said indictment which show any of the essential elements of the offense attempted to be charged therein, but conclusions only are alleged.

XVI. For the reasons hereinbefore alleged, this petitioner is being deprived of his liberty without due process of law and in violation of his rights under the Fifth and Sixth amendments to the Constitution of the United States.

Wherefore, your petitioner prays that a writ of Habeas Corpus issue out of this Court, directed to the United States Marshal for the Southern District of California, to bring in and to have your petitioner before this Court, at a time to be by this Court determined, together with the true cause of the detention of your petitioner, to the end that due inquiry may be made in the premises, and that this Court proceed in a summary way to determine the facts of this case in regard to the legality of the detention of your petitioner and to the deprivation of his liberty, and thereupon to dispose of your petitioner as law and justice may require, and your petitioner will ever pray.

Gavin W Craig

(Petitioner)

Russell Graham

Jerry Giesler

Gavin Morse Craig

(Attorneys for Petitioner)

EXHIBIT "A"

No. 12231-c

Filed.....

Viol: Section 88 Title 18 United States Code.

IN THE DISTRICT COURT OF THE UNITED
STATES IN AND FOR THE SOUTHERN
DISTRICT OF CALIFORNIA
CENTRAL DIVISION.

At a stated term of said court, begun and holden at the Coty of Los Angeles, County of Los Angeles, within and for the Central Division of the Southern District of California, on the second Monday of September in the year of our Lord one thousand nine Hundred thirty-four;

The Grand jurors for the United States of America, impaneled and sworn in the Central Division of the Southern District of California, and inquiring for the Southern District of California, upon their oath present? :

That thertofore, to wit: on the 15th day *fo* December, 1931, there was pending and undetermined in the United States District Court, in the County of Los Angeles, within and for the Central Division of the Southern District of California, an indictment and criminal prosecution in which one JOHN McKEON, and divers other persons therein named, were charged with violation of Sections 37 and 215 of the Federal penal Code, to wit: a case entitled United Sates of America vs. Alfred C. Wilkes et al., No. 10-679-M Criminal in said above named Court;

That

GAVEN W. CRAIG
HELEN WERNER and
JOSEPH WEINBLATT;

hereinafter called the defendants, whose full and true names are, and the full and true name of each of whom is, other than as herein stated, to the grand jurors unknown, each late of the Central Division of the Southern District of California, with full knowledge and notice of said indictment and criminal prosecution was so pending and undetermined in said United States District Court in the County of Los Angeles, State, division and district aforesaid, did, on or about December 15, 1931, and at all times thereafter, up to and including the date of the finding and presentation of this indictment, in the County of Los Angeles, state, division and district aforesaid, and within the jurisdiction of the United States and of this Honorable Court, knowingly, wilfully, unlawfully, corruptly and feloniously conspire, combine, confederate, arrange and agree together and with each other and with JOHN McKEON, who is not indicted herein, and whose name other than as herein stated, is to the grand jurors unknown, and with divers other persons whose names are to the grand jurors unknown, to promise, offer, give and cause to be promised, offered and given to each of certain persons, to wit: William B. Mitchell, then attorney general of the United States, Samuel W. McNabb, then United States Attorney for the said Southern District of California, and to divers other persons to said grand jurors unknown, each of whom was, and each of whom the defendants well knew was, throughout said period of time, then and there an officer of the United States and a person acting for and on behalf of the United States in an official function, under and by authority of the Department of Justice of the United States and the laws of the United States, certain sums of money and other things of value the amount of money and the

things of value being to the grand jurors unknown, with intent then and there on the part of said conspirators fraudulently and corruptly to influence the decision and action of each of said persons in favor of JOHN McKEON and other persons whose names are to the grand jurors unknown, and against the interests of the United States, on said certain question, matter, cause and proceeding which was at that time pending before each of them, the said persons, in his official capacity, to wit: the proper conduct of said criminal prosecution in said case entitled United States of America vs Alfred C. Wilkes, et al., No. 10,679-M Criminal, then and there pending in said District Court of the United States, in the County of Los Angeles, within and for the Central Division of the Southern District of California, and with intent also on the part of said conspirators to influence said hereinbefore mentioned officers to do acts in violation of their lawful duty as such officers and persons, to wit: to bring about a dismissal of said prosecution without any other reason for so doing than the receipt of said sum of money and things of value by said hereinbefore mentioned officers.

OVERT ACTS.

And the grand jurors aforesaid, upon their oath aforesaid, do further present:

That certain of said conspirators, at the several times and places in that behalf hereinafter mentioned, in connection with their names, did do, among others done by said conspirators, certain acts in furtherance of, in pursuance of and for the purpose of carrying out and to effect the object, design and purposes of said unlawful

conspiracy, combination and agreement aforesaid, that is to say:

1. That on or about the 1st day of February 1932 at Los Angeles, California, JOSEPH WEINBLATT accepted and received from JOHN McKEON a promissory note dated August 25, 1930 executed and signed by the Itale Petroleum Corporation of America and payable to R. S. McKeon in the *principl* sum of Twenty-five Thousand Dollars (\$25000.00).

2. That on or about the 10th day of February, 1932, at Los Angeles, California, JOSEPH WEINBLATT offered to sell to ADOLPH RAMISH a promissory note in the amount of Twenty-five Thousand Dollars (\$25000.00).

3. That on or about the 24th day of February, 1932, at Los Angeles, California, JOSEPH WEINBLATT collected and received one Hundred Dollars (\$100.00) from JOHN McKEON.

4. That on or about the 1st day of March, 1932, at Los Angeles, California, JOSEPH WEINBLATT collected and received Eighty Dollars (\$80.00) from JOHN McKEON.

5. That on or about the 9th day of March, 1932, at Los Angeles, California, Gavin W. Craig called John McKeon at his home on the telephone.

6. That on or about the 14th day of March, 1932, at Los Angeles, California, Helen Werner called Clay Carpenter on the telephone to make an appointment.

7. That on or about the 14th day of March, 1932, HELEN WERNER and GAVIN W. CRAIG made a trip to Long Beach, California, to see CLAY CARPENTER at his office.

8. That on or about the 14th day of March, 1932, GAVIN W. CRAIG and HELEN WERNER discussed with CLAY CARPENTER, at his office in Long Beach, California, the matter of payment of certain notes.

9. That on or about the 17th day of March, 1932, JOHN McKEON attended a meeting at the Stewart Hotel in San Francisco, California, for the purpose of discussing ways and means of raising money.

10. That on or about the 19th day of March, 1932, at Los Angeles, California, GAVIN W. CRAIG called JOHN McKEON on the telephone.

11. That on or about the 21st day of March, 1932, JOSEPH WEINBLATT went to the office of JOHN McKEON, at Los Angeles, California, and discussed the status of said unlawful and felonious conspiracy.

Contrary to the form of the statute in such case made and provided and against the peace and dignity of the United States of America.

SECOND COUNT.

And the grand jurors aforesaid, upon their oath aforesaid, do further present:

That heretofore, to-wit: on the 15th day of December, 1931, there was pending and undetermined in the United States District Court, in the County of Los Angeles, within and for the Central Division of the Southern District of California, an indictment and criminal prosecution in which one JOHN McKEON, and divers other persons therein named, were charged with violations of Section 37 and 215 of the Federal Penal Code, to-wit: a case entitled United States of America vs. Alfred G. Wilkens, et al., No. 10,697-M Criminal in said above named court:

GAVIN W. CRAIG
HELEN WERNER and
JOSEPH WEINBLATT

hereinafter called the defendants, whose full and true names are, and the full and true name of each of whom is, other than as herein stated, to the grand jurors unknown, each late of the Central Division of the Southern District of California, with full knowledge and notice that said indictment and criminal prosecution was so pending and undetermined in said United States District Court in the County of Los Angeles, state, division and district aforesaid, did, on or about December 15th, 1931, and at all times thereafter up to and including the date of the finding and presentation of this indictment, in the County of Los Angeles, state, division and district aforesaid, and within the jurisdiction of the United States and of this Honorable Court, knowingly, wilfully, unlawfully, corruptly and feloniously conspire, combine, confederate, arrange and agree together and with each other and with JOHN McKEON, who is not indicted herein, and whose name, other than as herein stated, is to the grand jurors unknown, and with divers other persons whose names are to the grand jurors unknown, being the aforesaid unindicated conspirators, to corruptly endeavor to influence, obstruct, impede, hinder, and to influence, obstruct, impede, hinder and embarrass the due administration of justice in said criminal proceeding pending in said Court and district aforesaid, that is to say:

That said defendants, GAVIN W. CRAIG, HELEN WERNER, and JOSEPH WEINBLATT, agreed to promise, offer, give and cause to be promised, offered and given to each of certain persons, to-wit: William D. Mitchell, then Attorney General of the United States,

Samuel W. McNabb, then United States attorney for the said Southern District of California, and to divers other persons to said grand jurors unknown, each of whom was, and each of whom the defendants well knew was, throughout said period of time, then and there an officer of the United States and person acting for and on behalf of the United States in an official function, under and by authority of the Department of Justice of the United States and the laws of the United States, certain sums of money and other things of value, the amount of money and the things of value being to the grand jurors unknown, with intent then and there on the part of said conspirators fraudulently and corruptly to influence the decision and action of each of said persons in favor of JOHN McKEON and other persons whose names are to the grand jurors unknown, and against the interests of the United States, on said certain question, matter, cause and proceeding which was at that time pending before each of them, the said persons, in his official capacity, to-wit: the proper conduct of said criminal prosecution in said case entitled United States of America vs. Alfred C Wilkes, et al, No. 10-679-M Criminal, then and there pending in said District Court of the United States, in the County of Los Angeles, within and for the Central Division of the Southern District of California, and with intent also on the part of said conspirators to corruptly endeavor to influence, and to procure other persons, whose names are to the grand jurors unknown, to corruptly endeavor to influence said hereinbefore mentioned officers to do acts in violation of their lawful duty as such officers and persons, to-wit: to bring about a dismissal of said prosecution without any other reason for so doing than the receipt of said sums of money and things of value by said hereinbefore mentioned officers.

OVERT ACTS

And the grand jurors aforesaid, upon their oath aforesaid, do further present:

That certain of said conspirators, at the several times and places in that behalf hereinafter mentioned in connection with their names, did so, among others done by said conspirators, certain acts in furtherance of, in pursuance of and for the purpose of carrying out and to effect the object, design and purposes of said unlawful conspiracy, combination and agreement aforesaid, that is to say:

1. That on or about the 1st day of February, 1932, at Los Angeles, California, JOSEPH WEINBLATT accepted and received from JOHN McKEON a promissory note dated August 25, 1930, executed and signed by the Italo Petroleum Corporation of America and payable to R. S. McKeon in the principal sum of Twenty-five Thousand Dollars (\$25,000.00).

2. That on or about the 10th day of February, 1932, at Los Angeles, California, JOSEPH WEINBLATT offered to sell to ADOLPH RAMISH a promissory note in the sum of Twenty-five Thousand Dollars (\$25,000.00).

3. That on or about the 24th day of February, 1932, at Los Angeles, California, JOSEPH WEINBLATT collected and received One Hundred Dollars (\$100.00) from JOHN McKEON.

4. That on or about the 1st day of March, 1932, at Los Angeles, California, JOSEPH WEINBLATT collected and received Eighty Dollars (\$80.00) from JOHN McKEON.

5. That on or about the 9th day of March, 1932, at Los Angeles, California, GAVIN W. CRAIG called JOHN McKEON at his home on the telephone.

6. That on or about the 14th day of March, 1932, at Los Angeles, California, HELEN WERNER called CLAY CARPENTER on the telephone to make an appointment.

7; That on or about the 14th day of March, 1932, HELEN WERNER AND GAVIN W. CRAIG made a trip to Long Beach, California, to see CLAY CARPENTER at his office.

8. That on or about the 14th day of March, 1932, GAVIN W. CRAIG and HELEN WERNER discussed with CLAY CARPENTER, at his office in Long Beach, California, the matter of payment of certain notes.

9. That on or about the 17th day of March, 1932, JOHN McKEON attended a meeting at the Stewart Hotel in San Francisco, California, for the purpose of discussing ways and means of raising money.

10. That on or about the 19th day of March, 1932, at Los Angeles, California, GAVIN W. CRAIG called JOHN McKEON on the telephone.

11. That on or about the 21st day of March, 1932, JOSEPH WEINBLATT went to the office of JOHN McKEON, at Los Angeles, California, and discussed the status of said unlawful and felonious conspiracy.

Contrary to the form of the statute in such case made and provided and against the peace and dignity of the United States of America.

PIERSON M. HALL

United States Attorney

Charles H. Carr

Assistant United States Attorney

EXHIBIT "B".

IN THE DISTRICT COURT OF THE UNITED STATES SOUTHERN DISTRICT OF CALIFORNIA CENTRAL DIVISION

UNITED STATES OF)
AMERICA,)
Plaintiff,)

No. 12231-C
Criminal

vs.)

CLERK'S ENTRY
OF JUDGMENT

GAVIN W. CRAIG,)
HELEN WERNER and)
JOSEPH WEINBLATT,)
Defendants)

2/28 Ord. defts have judgment on 1st ct.

EXHIBIT "D".

No. 12337-H

Filed.....

Viol. Section 88 Title 18 United States Code.

IN THE DISTRICT COURT OF THE UNITED
STATES IN AND FOR THE SOUTHERN
DISTRICT OF CALIFORNIA
CENTRAL DIVISION

At a stated term of said court, begun and holden at the City of Los Angeles, County of Los Angeles, within and for the Central Division of the Southern District of California, on the first Monday of February in the year of our Lord one thousand nine hundred thirty-five.

The grand jurors for the United States of America, impaneled and sworn in the Central Division of the Southern District of California, and inquiring for the Southern District of California upon their oath present:

That heretofore, to-wit: on the 15th day of December, 1931, there was pending and undetermined in the United States District Court, in the County of Los Angeles, within and for the Central Division of the Southern District of California, an indictment and criminal prosecution in which one JOHN McKEON, and divers other persons therein named, were charged with violations of Sections 37 and 215 of the Federal Penal Code, to-wit: a case entitled United States of America vs. Alfred G. Wilkes, et al., No. 10,679-M Criminal in said above named court;

T H a t

GAVIN W. CRAIG,
HELEN WERNER and
JOSEPH WEINBLATT,

hereinafter called the defendants, whose full and true names are, and the full and true name of each of whom is, other than as herein stated, to the grand jurors *unknown*, each late of the Central Division of the Southern District of California, with full knowledge and notice that said indictment and criminal prosecution was so pending and undetermined in said United States District Court in the County of Los Angeles, state, division and district aforesaid, did, on or about December 15, 1931, and at all times thereafter up to and including the date of the finding and presentation of this indictment, in the County of Los Angeles, state, division and district aforesaid, and within the jurisdiction of the United States and of this Honorable Court, knowingly, wilfully, unlawfully, corruptly and feloniously conspire, combine, confederate, arrange and agree together and with each other, and with JOHN McKEON and FRED L. WILKE, said JOHN McKEON and FRED L. WILKE being not indicted herein, and whose names, other than as herein stated, are to the grand jurors unknown, and with divers other persons whose names are to the grand jurors unknown, to corruptly endeavor to influence, obstruct, impede, hinder, and to corruptly influence, obstruct, impede, hinder and embarrass the due administration of justice in said criminal proceeding pending in said Court and district aforesaid.

That said scheme and conspiracy was to be carried out in substantially the following manner, to-wit: That said defendants were to approach JOHN McKEON and represent and state to said JOHN McKEON that the

defendants could and would, for a large sum of money, corruptly bring about a dismissal of said indictment entitled United States of America vs. Alfred G. Wilkes, et al., No. 10679-M, then and there pending in said District Court of the United States within and for the Central Division of the Southern Cistrict of California; that said defendants would represent and state to said JOHN McKEON that said defendants could and would, by means of political influence, things of value, sums of money, or gratuitously, corruptly influence or cause other persons to corruptly influence the decision and action of the persons acting on behalf of the United States in an official function, under and by authority of the laws of the United States, and before whom, in their official capacity, said question, matter, cause and proceeding, to-wit: United States v. Alfred G. Wilkes, et al, No. 10679-M, was pending, in favor of JOHN McKEON and other persons whose names are to the grand jurors unknown and without regard to whether or not the said defendant, JOHN McKEON, and the other defendants in said criminal action, was or were guilty of the crime charged in said criminal action No. 10679-M, and against the interests of the United States; that said defendants would state and represent to JOHN McKEON that the defendants could and would corruptly bring about a dismissal of said indictment pending in said court, division and district aforesaid, by corruptly influencing and causing others to corruptly influence the decision and action of each of said persons acting for and on behalf of the United States in an official function, under and by authority of the laws of the United States, and before whom, in their official capacity, said criminal prosecution was pending, to do acts in violation of their lawful duty as

such officers and persons and prevent the conduct and presentation of said criminal prosecution, without regard to the merits thereof; that said defendants would represent and state to JOHN McKEON and other persons to the grand jury unknown that the defendants could and would, for a large sum of money, corruptly endeavor to, and corruptly influence Samuel M. Shortridge, then United States Senator to influence said hereinbefore mentioned officers to do acts in violation of their lawful duty as such officers and to bring about, or permit to be brought about, the dismissal of said prosecution, without regard to the merits of, and against the interests of the United States on, said matter, cause and proceeding which was at that time pending before each of said hereinbefore mentioned officers, in their official capacity; that the said defendants would corruptly procure and induce JOHN McKEON, and divers other persons whose names are to the grand jury unknown, to agree to pay large sums of money to said defendants, with the understanding and for the purpose that said defendants would corruptly endeavor to influence, or corruptly cause other persons to endeavor to influence, the decision and action of the persons acting for and on behalf of the United States in an official function, under and by authority of the laws of the United States and before whom, in their official capacity, said question, matter, cause or proceeding was pending, to do acts in violation of their lawful duty as such officers and bring about, or permit to be brought about, the dismissal of said indictment and prosecution, without regard to the merits of said criminal action and without regard to whether or not the said defendant, JOHN McKEON and the other defendants in said criminal action No. 10679-M, or any of the defendants in said criminal action, was or

were guilty of the crime charged in said indictment; that said JHON McKEON, and divers other persons to the grand jury unknown, would pay to said defendants the sum of Fifty Thousand Dollars (\$50,000); that said GAVIN W. CRAIG, HELEN WERNER and JOSEPH WEINBLATT, defendants, and FRED L. WILKE, unindicted co-conspirator, would corruptly bring about, or cause to be brought about, the dismissal of said criminal prosecution and indictment pending *in* said court, division and district aforesaid; that said GAVIN W. CRAIG, HELEN WERNER and JOSEPH WEINBLATT, defendants, and FRED L. WILKE, unindicted co-conspirator, and divers other persons to the grand jury unknown, would corruptly endeavor to influence, corruptly influence, corruptly cause other persons to endeavor to influence, and to corruptly influence by means of political influence, things of value, sums of money, or gratuitously, and gratuitously, the decision and action of the persons acting for and on behalf of the United States in an official function, under and by authority of the laws of the United States, and before whom, in their official capacity, said criminal prosecution was pending, in favor of said JOHN McKEON and divers other persons to the grand jury unknown, without regard to the merits of said criminal action and without regard to whether or not the said defendant, JOHN McKEON, and the other defendants in said criminal action, or any of the defendants in said criminal action, was or were guilty of the crime charged in said indictment, and against the interests of the United States, that is to say, to cause said hereinbefore mentioned officers to dismiss, or cause to be dismissed said indictment and to do other acts in violation of their lawful duty as such officers.

OVERT ACTS.

And the grand jurors aforesaid, upon their oath aforesaid, do further present:

That certain of said conspirators, at the several times and places in that behalf hereinafter mentioned, in connection with their names, did do, among others done by said conspirators, certain acts in furtherance of, in pursuance of and for the purpose of carrying out and to effect the object, design and purposes of said unlawful conspiracy, combination and agreement aforesaid, that is to say:

1. That on or about the 1st day of February, 1932, at Los Angeles, California, JOSEPH WEINBLATT procured *from* JOHN McKEON a promissory note dated August 25, 1930, executed and signed by the Italo Petroleum Corporation of America and payable to R. S. McKEON in the principal sum of Twenty-five Thousand Dollars (\$25,000.00)

2. That on or about the 10th day of February, 1932, at Los Angeles, California, JOSEPH WEINBLATT offered to sell to ADOLPH RAMISH a promissory note in the amount of Twenty-five Thousand Dollars (\$25,000.00)

3. That on or about the 1st day of March, 1932, at Los Angeles California, JOSEPH WEINBLATT procured the said JOHN McKEON to pay to the said defendant JOSEPH WEINBLATT the sum of Eighty Dollars (\$80.00)

4. That on or about the 9th day of March, 1932, at Los Angeles, California, GAVIN W. CRAIG called JOHN McKEON at his home on the telephone.

5. That on or about the 14th day of March, 1932, at Los Angeles Californai, HELEN WERNER called CLAY CARPENTER on the telephone to make an appointment.

6. That on or about the 14th day of March, 1932, HELEN WERNER and GAVIN W. CRAIG made a trip to Long Beach, California, to see CLAY CARPENTER at his office.

7. That on or about the 14th day of March, 1932, GAVIN W. CRAIG and HELEN WERNER discussed with CLAY CARPENTER, at his office in Long Beach, California, the matter of payment of certain notes.

8. That on or about the 17th day of March, 1932, JOHN McKEON attended a meeting at the Stewart Hotel in San Francisco, California, for the purpose of discussing ways and means of raising money.

9. That on or about the 19th day of March, 1932, at Los Angeles, California, GAVIN W. CRAIG called JOHN McKEON on the telephone.

10. That on or about the 21st day of March, 1932, JOSEPH WEINBLATT went to the office of JOHN McKEON, at Los Angeles, California, and discussed the status of said unlawful and felonious conspiracy.

Contrary to the form of the statute in such case made and provided and against the peace and dignity of the United States of America.

PIERSON M. HALL

United States Attorney,

CHARLES H. CARR

Assistant U. S. Attorney,

Exhibit "E".

IN THE DISTRICT COURT OF THE UNITED
STATES SOUTHERN DISTRICT OF CALI-
FORNIA CENTRAL DIVISION

| | | |
|-----------------------------|---|--------------|
| UNITED STATES OF AMERICA,) |) | |
| |) | |
| Plaintiff) |) | NO. 12337-H |
| |) | |
| -vs- |) | PLEA IN BAR |
| |) | and |
| GAVIN W. CRAIG, et al.,) |) | PLEA OF ONCE |
| |) | IN JEOPARDY |
| Defendants) |) | |

Comes now GAVIN W. CRAIG, one of the defendants in the above entitled cause, and presents this his Plea in Bar and his Plea of Once in Jeopardy, and respectfully represents:

1.

That heretofore, on the 19th day of December, 1934, a valid indictment was returned against this defendant and other defendants therein named, in cause No. 12231-C in the above entitled Court, wherein and whereby this defendant and said other named defendants were charged with a conspiracy, all as set forth in the copy of said indictment attached hereto, marked Exhibit "A" and made a part hereof the same as though set out at length herein.

11.

That thereafter, and on the 20th day of December, 1934, this defendant was arraigned on the charge contained in said indictment, and thereafter entered a plea of not guilty to the charges therein contained; that on the 25th day of February, 1935, said cause duly came on for

trial in the above entitled Court, which Court had jurisdiction of the cause; whereupon a jury was impaneled and sworn to try said cause and, evidence having been introduced on behalf of the plaintiff and this defendant, and both plaintiff and defendant having rested, the Court directed the entry of judgment in favor of all defendants on the first count of said indictment, and withdrew from the consideration of the jury the charge contained in the first count of said indictment, and said cause was then submitted to the jury on the second count of said indictment. The jury failed to agree on a verdict on said second count, and was discharged. All as fully appears by the record in said Court. This defendant did not consent to the discharge of said jury.

111.

Thereafter, and on the 14th day of March, 1935, an indictment was returned in the present cause against the same defendants named in the former indictment. The first count of which present indictment is attached hereto, marked Exhibit "B" and made a part hereof the same as thought set out at length herein.

IV.

Said defendants are now before the Court upon and in answer to said latter indictment.

V.

This defendant now pleads the action of the Court, as hereinbefore set forth, in bar of the first count of the present indictment, and also pleads that he has been placed once in jeopardy as to the first count of the present indictment, by reason, first, of the action of said Court in rendering and directing the entry of a judgment in his favor on count one of the former indictment; second,

because a jury was impaneled and sworn to try the case, and evidence was introduced on the first count of said former indictment; third, because a jury was impaneled and sworn to try the case, and evidence was introduced on the second count of said former indictment. This defendant did not consent to the discharge of said jury.

V1.

In support of such pleas this defendant avers:

1st: That he is the same Gavin W. Craig named and charged in said former indictment;

2nd: That all of the above proceedings have been had in the above entitled court;

3rd: That the offense charged in the first count of said former indictment and the offense charged in the first count of the present indictment are the same in law;

4th: That the offense charged in the second count of said former indictment and the offense charged in the first count of the present indictment are the same in law;

5th: That the offense charged in the first count of said former indictment and the offense charged in the first count of the present indictment are the same in fact;

6th: That the offense charged in the second count of said former indictment and the offense charged in the first count of the present indictment are the same in fact;

7th: That the evidence necessary to convict under the first count of the former indictment is the same evidence necessary to convict under the first count of the present indictment;

8th: That the evidence necessary to convict under the second count of said former indictment is the same as the evidence required to convict under the first count of the present indictment;

9th: That the acts charged as against this defendant under the first count of said former indictment are the same acts charged under the first count of the present indictment;

10th: That the acts charged as against this defendant under the second count of said former indictment are the same acts charged under the first count of the present indictment.

VII.

This defendant further avers that if the acts alleged to have been committed and the facts pleaded in the present indictment had been proven to the satisfaction of the jury in the former case, and had been believed by the jury, they would have been sufficient to support a verdict of guilty in said first trial under each count of said former indictment.

VIII.

This defendant hereby offers to prove that the offenses charged under both the first count and the second count of said former indictment and the offense charged under the first count of the present indictment are the same in law and in fact, both by the record in said former case and by extrinsic evidence.

IX.

This defendant avers that upon the trial of said cause the Government introduced evidence, and the Court and jury had before them evidence, to the effect that the defendants conspired to bring about the corrupt dismissal of that certain indictment entitled United States of America vs. Alfred G. Wilkes, et al., No. 10679-M, then and there pending in the above entitled Court, not only by

means of offering to the officers of the United States mentioned in said indictment, sums of money and other things of value, but also by means of political influence and gratuitously, and by means of seeking to cause other persons, and particularly United States Senator Samuel M. Shortridge, to cause the officers and persons officially in charge of, and before whom said proceedings on said Italo indictment was pending, to do acts in violation of their lawful duty and bring about, or permit to be brought about, the dismissal of said proceeding without regard to the merits and without regard to whether the defendants therein were guilty or innocent of the charges therein.

X.

By reason of the premises aforesaid this defendant has been placed in jeopardy upon the charge contained in the first count of this indictment, and by reason of such jeopardy having attached has been acquitted of the charge contained in the first count of this indictment. Notwithstanding said fact the plaintiff is endeavoring to proceed to again place this defendant on trial upon the charges contained in the first count of this indictment and also contained in the first count and in the second count of said former indictment. All of which is in violation of this defendant's rights under the constitution and the laws of the United States.

That in support of, and in defense to the charge contained in the first count of the former indictment, and in support of, and in defense to the charge contained in the second count thereof, the parties thereto introduced evidence, as more fully appears from the transcript of testimony taken at said trial, a copy of which is attached hereto and made a part hereof, and marked Exhibit "C".

Exhibit "F".

IN THE DISTRICT COURT OF THE UNITED
STATES SOUTHERN DISTRICT OF CALI-
FORNIA CENTRAL DIVISION

| | | |
|---------------------------|---|-------------|
| UNITED STATES OF AMERICA, |) | |
| |) | |
| |) | Plaintiff, |
| |) | |
| |) | No. 12337-H |
| vs. |) | Criminal |
| |) | |
| GAVIN W. CRAIG, |) | CLERK'S |
| HELEN WERNER and |) | ENTRY OF |
| JOSEPH WEINBLATT, |) | JUDGMENT |
| |) | |
| |) | Defendants. |

It is the judgment of the Court that defendants Gavin W. Craig and Joseph Weinblatt be, and each hereby is assessed a fine of one thousand (\$1000.00) dollars, and they are committed to the custody of the Attorney General of the United States for confinement in a jail for a period of one (1) year.

STATE OF CALIFORNIA }
 COUNTY OF LOS ANGELES } ss.

Gavin W. Craig, being by me first duly sworn, deposes and says that he is The petitioner in the above entitled matter, that he has read the foregoing Application and Petition and knows the contents thereof; and that the same is true of his own knowledge, except as to the matters which are therein stated upon information or belief, and as to those matters that he believes it to be true.

Gavin W. Craig

Subscribed and sworn to before me this 14th day of
 November 1936.

[Seal]

Grant M. Raymond
 Notary Public in and for the County of
 Los Angeles, State of California.

[Endorsed]: Filed Nov. 16, -1936 R. S. Zimmerman,
 Clerk By J. M. Horn, Deputy Clerk.

At a stated term, to wit: The September Term, A. D. 1936, of the District Court of the United States of America, within and for the Central Division of the Southern District of California, held at the Court Room thereof, in the City of Los Angeles on Monday the 16th day of November in the year of our Lord one thousand nine hundred and thirty-six.

Present:

The Honorable LEON R. YANKWICH, District Judge.

| | | |
|--|---|-------------------|
| In the matter of the Application of GAVIN W. CRAIG, for a Writ of Habeas Corpus. | } | No. 12964-H Crim. |
|--|---|-------------------|

This matter coming on for hearing on petition for a Writ of Habeas Corpus; Jerry Giesler, Gavin M. Craig and Russell Graham, Esqs., appearing for the petitioner and Gavin W. Craig being present in propria persona; Hal Hughes and Howell Purdue, Assistant U. S. Attorneys, appearing for the Government;

Russell Graham, Esq., argues in support of petition;

Gavin W. Craig, petitioner, argues in support of petition;

Howell Purdue, Esq., makes a statement; whereupon

The Court orders that Writ be denied. Exception noted.

[TITLE OF COURT AND CAUSE.]

PETITION FOR APPEAL

GAVIN W. CRAIG, Petitioner above named, deeming himself aggrieved by the order and judgment entered herein on November 16, 1936, denying his petition for a Writ of Habeas Corpus, does hereby appeal from the said order and judgment to the United States Circuit Court of *Appeal* for the Ninth Circuit and prays that a transcript and record of proceedings and papers on which said order and judgment was made duly authenticated may be sent to the United States Circuit Court of *Appeal* for the Ninth Circuit.

Dated this 17th day of November, 1936.

Jerry Giesler

Gavin W. Craig

Russell Graham

Attorneys for Petitioner

The appeal is allowed this 17th day of November, 1936.

Leon R. Yankwich

District Judge

[Endorsed]: Received copy of the within this 18th day of Nov. 1936. Pierson M. Hall by Hal Hughes attorney for U. S. Filed Nov. 18, 1936 R. S. Zimmerman, Clerk By J. M. Horn, Deputy Clerk.

DISTRICT COURT OF THE UNITED STATES OF
 AMERICA SOUTHERN DISTRICT OF CALI-
 FORNIA CENTRAL DIVISION

| | | |
|-------------------------|--|-------------|
| IN THE MATTER OF THE) | | |
| APPLICATION OF) | | No. 12964-H |
| GAVIN W. CRAIG FOR A) | | ASSIGNMENT |
| WRIT OF HABEAS CORPUS) | | OF ERRORS |

Comes now Gavin W. Craig, by his attorneys, Jerry Giesler, Gavin M. Craig, and Russell Graham, in connection with his petition for an appeal herein assigns the following errors which he avers occurred upon the trial or hearing of the above-entitled cause and upon which he will rely upon appeal to the Circuit Court of *Appeal* for the Ninth Circuit, to wit:

1. That the Court erred in denying the petition for a Writ of Habeas Corpus herein.
2. That the Court erred in holding that it had no jurisdiction to issue a Writ of Habeas Corpus as prayed for in the petition herein.
3. That the Court erred in not holding that the allegations contained in the petition herein for a Writ of Habeas Corpus were sufficient in law to justify the granting and issuing of a Writ of Habeas Corpus as prayed for in said petition.

WHEREFORE, the appellant prays that the judgment and order of the United States District Court in and for the Southern District of California, Central Division,

made and entered herein in the office of the Clerk of the said Court on the 16th day of November, 1936, denying and dismissing the petition for a Writ of Habeas Corpus be reversed, and that this cause be remanded to the said lower court with instructions to issue a Writ of Habeas Corpus as prayed for in said petition.

Dated: November 17, 1936.

Jerry Giesler

Gavin M. Craig

Russell Graham

Attorneys for Appellant

[Endorsed]: Received copy of the within this 18th day of Nov, 1936 Pierson M. Hall by Hal Hughes, attorney for U. S. Filed Nov. 18, 1936 R. S. Zimmerman Clerk By J. M. Horn, Deputy Clerk.

[TITLE OF COURT AND CAUSE.]

BOND ON APPEAL

KNOW ALL MEN BY THESE PRESENTS:

That we, GAVIN W. CRAIG, as principal, and Florida Brownsberger and ADELAIDE L. DEAN as sureties, are jointly and severally held and firmly bound unto the United States of America in the penal sum of Two Hundred and Fifty Dollars (\$250.00) to be paid to said United States of America; to which payment, well and truly to be made, we bind ourselves and each of us, jointly and severally, and each of our heirs, executors and administrators, by these presents.

Sealed with our seals and dated this 15th day of December, 1936.

WHEREAS, the above named GAVIN W. CRAIG has taken an appeal to the United States Circuit Court of Appeals for the Ninth Circuit to reverse the decree made, rendered and entered on the 16th day of November, 1936, in the District Court of the United States for the Southern District of California, Central Division, in the above entitled cause;

AND WHEREAS, said District Court of the United States for the Southern District of California, has fixed

the amount of Petitioner's bond on said appeal in the sum of Two Hundred and Fifty (\$250.00) Dollars;

NOW THEREFORE, the condition of this obligation is such that if the above-named GAVIN W. CRAIG shall prosecute his said appeal, and any appeal allowed to be taken to the Supreme Court of the United States to effect, and answer all costs which may be adjudged against him, if he fails to make good said appeal, then this obligation shall be void; otherwise to remain in full force and effect.

Gavin W. Craig

Principal

Adelaide Lee Dean

Florida Brownsberger

Sureties

STATE OF CALIFORNIA)
 (ss:
COUNTY OF LOS ANGELES)

On this 16th day of December, 1936, before me personally appeared Florida Brownsberger and on Dec. 15, 1936, ADELAIDE L. DEAN known to me to be the persons described in and who duly executed the foregoing instrument, and acknowledged that they executed the same.

And the said Florida Brownsberger and ADELAIDE L. DEAN, each being by me duly sworn, for herself says that she is a resident and householder of the said county of Los Angeles and that she is worth the sum of \$1000 over and above her just debts and legal liabilities and property exempt from execution.

Adelaide Lee Dean
Florida Brownsberger

Subscribed and sworn to before me this 15th and 16th days of December, 1936.

[Seal]

R. S. ZIMMERMAN
Clerk, U. S. Dist. Court.

Examined and recommended for approval, as provided in Rule 28.

G. M. Craig
Attorney for Petitioner.

I hereby approve the foregoing bond this 15th day of December, 1936.

Leon R. Yankwich
United States District Judge.

[Endorsed]: Filed Dec 16 1936 R. S. Zimmerman,
Clerk, By J. M. Horn, Deputy Clerk.

[TITLE OF COURT AND CAUSE.]

STIPULATION

IT IS HEREBY STIPULATED by and between the attorneys for the respective parties hereto that, in preparing the Transcript on Appeal, herein, Exhibit "C" attached to the petition for a writ of habeas corpus, may be omitted from said transcript.

The said Exhibit "C" consists of that portion of the Transcript on Appeal in Case No. 7862, in the United States Circuit Court of Appeals for the Ninth Circuit, entitled Gavin W. Craig, Appellant, vs. United States of America, containing a statement of the evidence.

IT IS FURTHER STIPULATED that the statement of the evidence contained in the transcript in the said case no. 7862 may be referred to at the hearing on this appeal.

PEIRSON M. HALL

United States Attorney

By Hal Hughes

Assistant United States Attorney

Russell Graham

Attorney for Appellant

[Endorsed]: Filed Dec. 18, 1936 R. S. Zimmerman
Clerk By J. M. Horn Deputy Clerk.

[TITLE OF COURT AND CAUSE.]

PRAECIPE

To the Clerk of Said Court:

Sir:

Please issue Transcript of Record, including:

1. The Petition for a Writ of Habeas Corpus; minus: Exhibit "C" attached thereto, Points and Authorities attached thereto.
2. The Order denying the Petition;
3. The Petition for Appeal and the Order allowing the same;
4. The Assignment of Errors;
5. The Citation;
6. This Praecipe.
7. Stipulation re transcript
8. Bond on Appeal

Pierson M Hall

U. S. Atty by

Hal Hughes

Asst.

Russell Graham

Atty for App.

[Endorsed]: Filed Dec. 18, 1936 R. S. Zimmerman
Clerk By J. M. Horn Deputy Clerk.

[TITLE OF COURT AND CAUSE.]

CLERK'S CERTIFICATE.

I, R. S. Zimmerman, clerk of the United States District Court for the Southern District of California, do hereby certify the foregoing volume containing 44 pages, numbered from 1 to 44 inclusive, to be the Transcript of Record on Appeal in the above entitled cause, as printed by the appellant, and presented to me for comparison and certification, and that the same has been compared and corrected by me and contains a full, true and correct copy of the citation; petition for writ of habeas corpus; order denying writ of habeas corpus; petition for appeal and order allowing appeal; assignment of errors; stipulation re printing of transcript; bond on appeal, and praecipe.

I DO FURTHER CERTIFY that the amount paid for printing the foregoing record on appeal is \$ and that said amount has been paid the printer by the appellant herein and a receipted bill is herewith enclosed, also that the fees of the Clerk for comparing, correcting and certifying the foregoing Record on Appeal amount to..... and that said amount has been paid me by the appellant herein.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the Seal of the District Court of the United States of America, in and for the Southern District of California, Central Division, this 23rd day of December, in the year of Our Lord One Thousand Nine Hundred and Thirty-six and of our Independence the One Hundred and Sixty-first.

R. S. ZIMMERMAN,

Clerk of the District Court of the
United States of America, in
and for the Southern District
of California.

By

Deputy.